

REMARKS

Claims 75-85, 92-101, 114-119, 122-133, 139 and claim 151-230 are now present in this application. New claims 155-230 have been added by the present Amendment. Further, claims 1-74, 86-91, 101-113, 120-121, 134-138 and 140-150 have been canceled by the present Amendment, without prejudice or disclaimer of the subject matter contained therein. Claims 75, 77, 92, 161, 180 and 194 are independent.

INFORMATION DISCLOSURE STATEMENT

Initially, Applicants note that the Information Disclosure Statement filed on October 2, 2002, was inadvertently filed with an incorrect PTO-1449 form. The PTO-1449 form listed several documents, only one of which was relevant to the present application. This one document was then included with the Information Disclosure Statement submitted October 3, 2002, which was considered by the Examiner. Accordingly, consideration of the Information Disclosure Statement of October 2, 2002, is not necessary.

However, Applicants further note that the Information Disclosure Statement of January 11, 2002, while considered by the Examiner, includes an initial PTO-1449 form wherein each of the references have been crossed out by the Examiner. There is no explanation regarding this Information Disclosure Statement. As this Information Disclosure Statement was timely filed on January 11, 2002, as publications of each of the references were included therewith, and as no fees were necessary in connection with the present application, each of the documents should

have been considered by the Examiner. Thus, the Examiner should have initialed the PTO-1449 form next to each of the references, and not crossed out each of the references (the references, further, were in the English language). Accordingly, Applicants are hereby resubmitting the PTO-1449 form filed with the Information Disclosure of January 11, 2002, and **requesting that the Examiner both sign the form and initial the form, indicating her consideration of various references cited.**

PERSONAL INTERVIEW

Applicants wish to thank Examiners Smith and Thein for granting the personal interview of March 4, 2004. Applicants believe that the interview was very productive and thank the Examiners for their time and effort.

In the interview, each of the various aspects of the Examiner's Office Action of January 16, 2004, were discussed. Regarding the Examiner's removal of various claims from prosecution in connection with the present application, the Examiners agreed that if claims, such as claims 114 and 130, were written in dependent form, so as to be dependent from claim 75, then these claims would be rejoined into the prosecution in connection with the present application. Accordingly, by the present Amendment, claims 1-74 have been officially canceled, claims 114 and 130 have been amended, and various other claims have been amended to depend therefrom. Further, claims 86-91 have been canceled, and many other claims have either been canceled or amended as instructed by the Examiner. **Accordingly, rejoinder of various ones of**

claims 114-119, 122-133, 139 and 151-154 in connection with the present application is earnestly solicited.

Applicants' representatives thereafter addressed the Examiners' rejections under 35 U.S.C. §101. While Applicants' representatives disagreed with the Examiners' arguments that both a technical aspect of the claim and a useful and tangible result were required to satisfy U.S.C. §101, Applicants' representatives did agree to amend rejected claim 75 to clarify that the notification of the business transaction occurred via network connection. The Examiners agreed that such an amendment would overcome the rejection. The remaining independent claims were not subject to a rejection under 35 U.S.C. §101. As agreed, such an amendment has been made by the present Amendment, and thus withdrawal of the Examiners' rejection is respectfully requested. Further, with regard to the new claims, the rejection should not apply for reasons similar to those of at least one of the other independent claims.

With regard to the Examiners' rejections under 35 U.S.C. §112, these rejections were also discussed. Specifically, Applicants' representatives indicated that the aspects of determining a business transaction proceeds allocation and allocating a portion of business transaction proceeds were each steps supported by, in a non-limiting fashion, payment entity 370 of Figure 11. In conjunction with Figure 11 of the present application, Applicants' representatives explained that when writing a claim from the perspective of the payment entity, no further steps were needed and thus the claim was not incomplete. The Examiners agreed and indicated that the rejection would be withdrawn upon filing of the aforementioned explanation.

With regard to other portions of the Examiners rejection, Applicants' representatives further explained that the payment entity 370 performed, among other features, a determination of a business transaction proceeds allocation, and the allocation of portions of the proceeds. Thus it was further agreed that the phrase "determining a business transaction proceeds allocation", when properly interpreted, was not unclear and that further method steps were not needed. Similarly, the other rejected aspects of claim 75 and the remaining rejected claims, were also discussed, and it was agreed that the various terminology utilized by Applicants was not indefinite nor unclear. Thus, withdrawal of all of the rejections under 35 U.S.C. Section 112 are requested.

With regard to the various prior art rejections applied over the Masi et al. patent, Applicants' representative generally described the distinctions between independent claim 75 and the Masi et al. reference. Applicants' representatives indicated that with regard to claim 75 of the present application, a business transaction proceeds allocation was first determined, and then a portion of the proceeds were allocated to a first of a plurality of entities, and another portion was allocated to at least one additional entity.

With regard to Masi et al., it was explained that proceeds for a business transaction are never allocated between any entities, contrary to that set forth in claim 75. It was explained that in Masi et al., when a purchase was approved, a connection with an automated clearinghouse (ACH) processors 17 was made, and a member account 21 was debited in the amount of the purchase, while the merchant's account 20 was similarly credited in the amount of the entire purchase (thus, with no allocation of the proceeds to any other entity). As such, the proceeds for

the entire business transaction proceeds were credited only to the merchant, and to no other entity.

Thus, it was explained that in Masi et al, there is no allocation of these business transaction proceeds to multiple entities, as set forth in claim 75, for example. At best, subsequent transactions take place in Masi et al., wherein the merchant account 20 is further debited in the amount of some discount, and an organization account 22 is then credited. See column 3, lines 20-40 of Masi et al. Later on, based upon money accumulated in this organization account 22, commissions are paid out to provide an incentive for recruitment of new members and an incentive for new members to use a particular debit card, as set forth in column 4, lines 31-34.

In addition, Applicants' representatives proposed some new dependent claims, indicating that one of the plurality of entities receiving an allocation is a provider; and other claims further distinguishing from Masi et al, indicating that an additional entity receiving an allocation does not include the consumer. These further claims are included in the present Amendment as new claims 155-160, for example.

In addition, Applicants' representatives further discussed different ways to claim Applicants' invention, in a manner which still distinguished from the prior art. For example, new claim 161 was generally discussed, including the steps of receiving notification of a business transaction between entities, and then allocating a portion of the business transaction to a first of the entities of the transaction and to at least one additional entity. Again, the aspect of allocating business transaction proceeds between multiple entities is clearly not taught or

suggested in Masi et al. Such a new claim has been added in the present Amendment in the form of new claim 161. Other new claims, also distinguishing from Masi et al, have also been added by the present Amendment.

At that time, the personal interview was concluded. The Examiners indicated that they had received a greater appreciation for Applicants' invention, generally agreed that the Masi et al. reference distinguished from claim 75 of the present application, and indicated that a further search would need to be conducted.

ELECTION/RESTRICTION REQUIREMENT

The various aspects of the election/restriction requirement were addressed in the personal interview as summarized above, wherein the majority of the non-elected claims have been canceled, with the remaining non-elected claims being amended so as to be placed in a form acceptable for rejoinder in connection with the present application. Accordingly, rejoinder of claims 114-119, 122-133, 139, and 151-154 in connection with the present application is respectfully requested.

CLAIM REJECTIONS UNDER 35 U.S.C. §101

The Examiner has rejected claims 75, 76, 78-81, 83-85, 93-95, and 98-100 under 35 U.S.C. §101. This rejection is respectfully traversed for the reasons set forth above in the personal interview. As such, Applicants note that independent claim 75 has been amended, in an effort to expedite prosecution of each of the claims in connection with the present application, to clarify that the business transaction is received via a network connection, to thereby overcome the Examiners' rejection. With regard to independent claim 77-92, Applicants note that these

claims were not subject to the Examiner's rejection. With regard to the remaining claims, these claims are allowable for at least the reasons previously set forth regarding their corresponding independent claim. Accordingly, withdrawal of the Examiners' rejection is respectfully requested.

In addition, the Examiners' rejection is not applicable to new claims 161, 180 and 194 for at least somewhat similar reasons.

CLAIM REJECTIONS UNDER 35 U.S.C. §112

The Examiner has rejected many of the claims of the present application under 35 U.S.C. §112, second paragraph. Accordingly, for the reasons set forth above summarizing the content of the interview, withdrawal of this rejection is respectfully requested. Further, Applicants note that new claims 155-230 in connection with the present application are in strict compliance with 35 U.S.C. §112.

PRIOR ART REJECTION

The Examiner has rejected claims 75-85 and 92-101 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,105,001 to Masi et al. This rejection is respectfully traversed for the reasons set forth above summarizing the content of the personal interview, and is further inapplicable to new claims 155-230. Specifically, claim 75 was discussed at the interview and its distinctions over Masi et al. are summarized above. Claim 77 essentially includes the limitation of claim 75, regarding allocation of portions of business transaction proceeds to various entities, and is thus somewhat similarly allowable over Masi et al. With regard to independent claims 92, 161, 180 and 194, while each claim should be interpreted only based

upon the limitations present therein, each of these claims captures, in various ways, business transaction proceeds allocation in a manner which is not taught or suggested by Masi et al. Accordingly, the rejection is respectfully traversed, and withdrawal of the rejection is respectfully requested.

CONCLUSION

Accordingly, in view of the above amendments and remarks, reconsideration of all outstanding objections and allowance of each of claims 75-85, 92-101, 114-119, 122-133, 139 and 151-230 in connection with the present application are earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Donald J. Daley at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKY & PIERCE, P.L.C

By: 
Donald J. Daley, Reg. No. 34,313

DJD:dw

P.O. Box 8910
Reston, Virginia 20195
(703)668-8000



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	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB CLASS	TRANSLATION	
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OTHER DOCUMENTS (Include Name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.) date, page(s), volume-issue number(s), publisher, city and/or country where published.							
		"New Spin On Affiliate Retailing", Ted Kemp, <u>News & Analysis</u> , November, 2001.					
		"The Way To Save For College", <u>www.upromise.com</u> , November, 2001.					
		"The Sharper Image", <u>www.sharperimage.com</u> , November, 2001.					
		"The Sharper Image - Affiliate Program", <u>www.sharperimage.com</u> , November, 2001.					
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